IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 83 OF 2006

Archana P. Patil .. Applicant

versus

Parshuram K. Patil .. Respondent

...

Mr.Kuldeep S. Patil for the applicant.

Mr.Anilkumar Patil for the respondent.

CORAM : D.G. KARNIK, J

DATED : 29th August 2006.

P.C:-

1. Heard learned counsel for the parties.

2. This application under section 24 of Code of Civil Procedure is filed by the wife for transfer of the matrimonial proceedings bearing H.M.P. No.320 of 2004 pending in the Court of Civil Judge, Senior Division, Thane to the Court of Civil Judge, Senior

Division, Panvel or Alibag.

3. In paragraph no. 2 of the petition, the petitioner has stated that on 27th June, 2006 when she attended the court of Civil Judge, Junior Division, Thane, respondent abused her and also tried to grab the minor son aged about 3 years who is in her custody. She has further alleged that after the petitioner left the court, the respondent was waiting outside the court premises and assaulted her. Of course, the respondent has denied these allegations. The fact however remains that the petitioner resides at Panvel with her minor son aged about 3 years. It would be difficult for her to go to Thane on every date of hearing.

4. In the case of Neelam Pathak Vs. Alok Kumar Bharti reported (2004) 13 Supreme Court Cases 687, in similar circumstances where the wife was residing with the minor child of three years, the Supreme Court held that it was a fit case to transfer the matrimoninal proceedings. In Sumita Singh Vs. Kumar Sanjay & Anr. reported in (2001) 10 Supreme Court Cases 41 also, the Supreme Court held that the wife’s convenience is to be taken into consideration.

5. In the facts and circumstances of the case, it would be proper to transfer the matrimonial proceedings as prayed. Hence, the application is allowed. Matrimonial proceeding bearing No.H.M.P No. 320 of 2004 pending in the Court of Civil Judge, Senior Division, Thane is withdrawn from his file and is transferred to the Court of Civil Judge, Senior Division, Panvel.

6. Copy of this order be sent to the Court of Civil Judge, Senior Division at Panvel and Thane. Parties shall appear before the Principal Judge, Civil Judge, Senior Division, Panvel on 9th October, 2006.

D.G. KARNIK, J